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NOV 18 2013

UNITED STATES DISTRICT COURT

for the

Western District of Washington

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)

Facebook Account 1567704308

Case No.

MJ13-571

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A, which is incorporated by reference.

located in the Western District of Washington, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, which is incorporated by reference.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section

Interstate Threats

Offense Description

18 USC 875(c)

The application is based on these facts:

See Affidavit of Special Agent O'Reilly, which is incorporated herein by reference.

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Applicant's signature

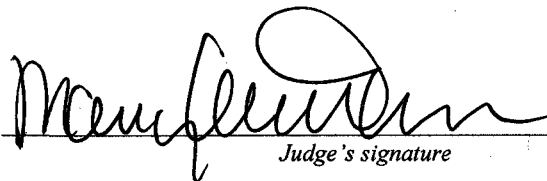
Special Agent O'Reilly

Printed name and title

Sworn to before me and signed in my presence.

Date:

Nov. 18, 2013



Judge's signature

Magistrate Judge Theiler

Printed name and title

City and state: Seattle, Washington

1 **AFFIDAVIT OF KERA E. O'REILLY**

2 STATE OF WASHINGTON)
 3) ss
 4 COUNTY OF KING)

5 I, KERA O'REILLY, a Special Agent with the Federal Bureau of Investigation, Seattle,
 6 Washington, having been duly sworn, state as follows:

7 **AFFIANT BACKGROUND**

8 1. I am a Special Agent with the FBI and have been so employed since May
 9 2000. Prior to serving as a Special Agent, I was employed as a Professional Support
 10 Employee with the FBI, to include serving as the Victim Witness Specialist, beginning in
 11 September 1996. As an FBI Special Agent, I have investigated, received training and
 12 have field experience participating in investigating the diverse criminal violations over
 13 which the FBI has jurisdiction, to include domestic and international terrorism, organized
 14 crime, white-collar crime, civil rights violations, bank robbery, extortion, kidnapping,
 15 crimes against children, interstate criminal activity, fugitive matters, firearms violations,
 16 illegal narcotics and other violations of federal statutes. I have acquired knowledge and
 17 information about these offenses and the various methods by which they are executed,
 18 through formal and informal training, other law enforcement officers and investigators,
 19 informants, individuals I have arrested and interviewed, as well as through my
 20 participation in other investigations.

21 2. As a law enforcement officer, I have participated in the execution of
 22 numerous arrest and search warrants, which have resulted in arrests, convictions, and the
 23 recovery of evidence and contraband. I have served as a member of the FBI's Evidence
 24 Response Team since 1997, to include serving as the Senior Team Leader, and have
 25 completed specialty training in organizing, conducting, and leading evidence recovery
 26 operations involving the processing of complex crime scenes and utilizing forensic
 27 evidence collection techniques. I am also an FBI Field Representative for the National
 28 Center for the Analysis of Violent Crime, serving as one of Washington State's liaisons

AFFIDAVIT OF O'REILLY- 1

UNITED STATES ATTORNEY
 700 STEWART STREET, SUITE 5220
 SEATTLE, WASHINGTON 98101
 (206) 553-7970

1 for the FBI's Behavioral Assessment Units, responsible for providing criminal
2 investigative analysis in support of law enforcement agencies investigating unusual or
3 repetitive violent crimes, counterterrorism cases, and threatening communications.

4 3. I am currently assigned to the Seattle Division's Domestic Terrorism Squad
5 on the Joint Terrorism Task Force ("JTTF"), which investigates criminal violations
6 relating to incidents of both domestic and international terrorism.

7 **INTRODUCTION AND PURPOSE OF AFFIDAVIT**

8 4. I make this affidavit in support of an application for a search warrant for
9 information associated with Facebook user ID number 1567704308 that is stored at a
10 premises owned, maintained, controlled, or operated by Facebook, a social networking
11 company headquartered in Menlo Park, California. The information to be searched is
12 described in the following paragraphs and in Attachment A. This affidavit is made in
13 support of an application for a search warrant under Title 18, United States Code,
14 Sections 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the
15 government records and other information in its possession, more thoroughly described in
16 Attachment B and incorporated herein, pertaining to the subscriber or customer
17 associated with the user ID number 1567704308.

18 5. The facts set forth in this Affidavit are based on my own personal
19 knowledge; knowledge obtained from other individuals during my participation in this
20 investigation, including other law enforcement officers; interviews of cooperating
21 witnesses; review of documents and records related to this investigation; communications
22 with others who have personal knowledge of the events and circumstances described
23 herein; and information gained through my training and experience. Because this
24 Affidavit is submitted for the limited purpose of establishing probable cause in support of
25 the application for a search warrant, it does not set forth each and every fact that I or
26 others have learned during the course of this investigation.

27 6. Based on my training and experience, and the facts as set forth in this
28 affidavit, there is probable cause to search the information described in Attachment A for

1 evidence of the fruits and instrumentalities of violations of Interstate Threats, in violation
2 of Title 18, United States Code, Section 875(c).

3 7. As set forth below, Mark Verhul posted threats that traveled interstate on
4 his Facebook page, *i.e.*, the account that is the subject of this search warrant affidavit.

5 **APPLICABLE LAW**

6 8. Title 18, United States Code, Section 875(c) provides: "Whoever transmits
7 in interstate or foreign commerce any communication containing any threat to kidnap any
8 person or any threat to injure the person of another" shall be criminally punished.

9 **SUMMARY OF PROBABLE CAUSE**

10 9. On November 1, 2013, Kent Police Department ("KPD") Officer Birkhofer
11 contacted MARK BRIAN VERHUL in a Kent public park. I have reviewed Officer
12 Birkhofer's report relating to this contact, and also spoken with him. According to the
13 report and interview, Officer Birkhofer arrested VERHUL for two offenses. VERHUL
14 was released that day rather than being booked into jail. VERHUL had a laptop
15 computer in his possession at the time of his contact with Officer Birkhofer.

16 10. Later that same night, two different KPD officers, Officers Wheeler and
17 Workman, contacted VERHUL at a homeless shelter after a report that VERHUL had
18 caused a disturbance at the shelter. I have interviewed the two officers about this contact.
19 According to Officer Workman, VERHUL had a laptop computer in his possession.
20 According to Officer Workman, VERHUL stated, "I want to kill Officer B[redacted]",
21 *i.e.*, KPD Officer D.B. According to Officer D.B., he had contact with VERHUL prior to
22 November 1, 2013, on matters unrelated to the contacts by Officers Birkhofer, Wheeler,
23 and Workman.

24 11. On November 5, 2013, I reviewed the public portion of a Facebook account
25 that is under the name "Mark Verheul." There is probable cause to believe that this
26 account belongs to MARK BRIAN VERHUL, despite the different spelling of the last
27 name. First, the Facebook page includes a description of the encounter with Officer
28 Birkhofer that is described above. Second, the "URL," *i.e.*, the web address for the

1 Facebook page, is "<https://www.facebook.com/mark.verhul?fref=ts>." This address
2 includes "verhul" or the correct spelling of MARK VERHUL's name. Third, the
3 Facebook page includes multiple photographs of a particular individual. I have compared
4 these photographs to MARK VERHUL's Department of Licensing photograph, and it
5 appears that the two individuals are one and the same. Fourth, the Facebook page lists
6 the owner as being divorced, and Pierce County Superior Court records show that MARK
7 VERHUL is indeed divorced.

8 12. The Facebook page includes a posting that occurred on or about November
9 1, 2013. See Exhibit A. The posting includes a photograph of a KPD officer. Sergeant
10 Ford confirmed that the photograph depicts Officer D.B. The posting includes the
11 message, "THIS IS THE COP I AM GOING TO KILL."

12 13. The page contains a separate posting that occurred on or about November 4,
13 2013. See Exhibit B. The posting contains the same photograph of Officer D.B., with
14 the message, "THIS PIG NEEDS TO BE TAKEN OUT."

15 14. The page also contains a posting that occurred on or about November 4,
16 2013. See Exhibit C. The posting contains the same photograph, with the message, "I
17 want to kill this cops [sic] entire family and let him live to suffer from the memory of
18 why I killed them."

19 15. The page contains a separate posting that occurred on or about November 4,
20 2013. See Exhibit D. The posting contains the same photograph, alongside two
21 photographs of what appears to be a dead body in a police vehicle. The posting includes
22 the following message, "This is what is going to happen to the next Kent WA cop who
23 fucks with me."

24 16. I have reviewed the <http://newsroom.fb.com/Infrastructure> website,
25 www.facebook.com's publically available description of where their on-line data centers
26 are located. It specifies that their datacenters are located in the following cities:
27 Prineville, Oregon; Forest City, North Carolina; Lulea, Sweden; and Altoona, Iowa.
28

1 Thus, there is probable cause to believe that the Facebook postings described above
2 involved an interstate wire that traveled outside the State of Washington.

3 17. On November 5, 2013, MARK VERHUL was arrested at a homeless
4 shelter in Kent, Washington. He had the SUBJECT DEVICE in his possession. Kent
5 officers seized the SUBJECT DEVICE incident to VERHUL's arrest.

6 **FACEBOOK POLICIES AND PROCEDURES**

7 18. Facebook owns and operates a free access social networking website of the
8 same name that can be accessed at <http://www.facebook.com>. Facebook allows its users
9 to establish accounts with Facebook, and users can then use their accounts to share
10 written news, photographs, videos, and other information with other Facebook users, and
11 sometimes with the general public.

12 19. Facebook asks users to provide basic contact and personal identifying
13 information to Facebook, either during the registration process or thereafter. This
14 information may include the user's full name, birth date, gender, contact email addresses,
15 Facebook passwords, Facebook security questions and answers (for password retrieval),
16 physical address (including city, state, and zip code), telephone numbers, screen names,
17 websites, and other personal identifiers. Facebook also assigns a user identification
18 number to each account. According to Facebook, the user identification, 1567704308, is
19 associated with the account that is described above.

20 20. Facebook users may join one or more groups or networks to connect and
21 interact with other users who are members of the same group or network. A Facebook
22 user can also connect directly with individual Facebook users by sending each user a
23 "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two
24 users will become "Friends" for purposes of Facebook and can exchange
25 communications or view information about each other. Each Facebook user's account
26 includes a list of that user's "Friends" and a "News Feed," which highlights information
27 about the user's "Friends," such as profile changes, upcoming events, and birthdays.
28

1 21. Facebook users can select different levels of privacy for the
2 communications and information associated with their Facebook accounts. By adjusting
3 these privacy settings, a Facebook user can make information available only to himself or
4 herself, to particular Facebook users, or to anyone with access to the Internet, including
5 people who are not Facebook users. A Facebook user can also create "lists" of Facebook
6 friends to facilitate the application of these privacy settings. Facebook accounts also
7 include other account settings that users can adjust to control, for example, the types of
8 notifications they receive from Facebook.

9 22. Facebook users can create profiles that include photographs, lists of
10 personal interests, and other information. Facebook users can also post "status" updates
11 about their whereabouts and actions, as well as links to videos, photographs, articles, and
12 other items available elsewhere on the Internet. Facebook users can also post information
13 about upcoming "events," such as social occasions, by listing the event's time, location,
14 host, and guest list. In addition, Facebook users can "check in" to particular locations or
15 add their geographic locations to their Facebook posts, thereby revealing their geographic
16 locations at particular dates and times. A particular user's profile page also includes a
17 "Wall," which is a space where the user and his or her "Friends" can post messages,
18 attachments, and links that will typically be visible to anyone who can view the user's
19 profile.

20 23. Facebook has a Photos application, where users can upload an unlimited
21 number of albums and photos. Another feature of the Photos application is the ability to
22 "tag" (*i.e.*, label) other Facebook users in a photo or video. When a user is tagged in a
23 photo or video, he or she receives a notification of the tag and a link to see the photo or
24 video. For Facebook's purposes, a user's "Photoprint" includes all photos uploaded by
25 that user that have not been deleted, as well as all photos uploaded by any user that have
26 that user tagged in them.

27 24. Facebook users can exchange private messages on Facebook with other
28 users. These messages, which are similar to e mail messages, are sent to the recipient's

1 “Inbox” on Facebook, which also stores copies of messages sent by the recipient, as well
2 as other information. Facebook users can also post comments on the Facebook profiles
3 of other users or on their own profiles; such comments are typically associated with a
4 specific posting or item on the profile. In addition, Facebook has a “Chat” feature that
5 allows users to send and receive instant messages through Facebook. These chat
6 communications are stored in the chat history for the account. Facebook also has a Video
7 Calling feature, and although Facebook does not record the calls themselves, it does keep
8 records of the date of each call.

9 25. If a Facebook user does not want to interact with another user on Facebook,
10 the first user can “block” the second user from seeing his or her account.

11 26. Facebook has a “like” feature that allows users to give positive feedback or
12 connect to particular pages. Facebook users can “like” Facebook posts or updates, as
13 well as webpages or content on third party (*i.e.*, non Facebook) websites. Facebook users
14 can also become “fans” of particular Facebook pages.

15 27. Facebook has a search function that enables its users to search Facebook for
16 keywords, usernames, or pages, among other things.

17 28. Each Facebook account has an activity log, which is a list of the user’s
18 posts and other Facebook activities from the inception of the account to the present. The
19 activity log includes stories and photos that the user has been tagged in, as well as
20 connections made through the account, such as “liking” a Facebook page or adding
21 someone as a friend. The activity log is visible to the user but cannot be viewed by
22 people who visit the user’s Facebook page.

23 29. Facebook Notes is a blogging feature available to Facebook users, and it
24 enables users to write and post notes or personal web logs, *i.e.*, “blogs”, or to import their
25 blogs from other services, such as Xanga, LiveJournal, and Blogger.

26 30. The Facebook Gifts feature allows users to send virtual “gifts” to their
27 friends that appear as icons on the recipient’s profile page. Gifts cost money to purchase,
28 and a personalized message can be attached to each gift. Facebook users can also send

1 each other “pokes,” which are free and simply result in a notification to the recipient that
2 he or she has been “poked” by the sender.

3 31. Facebook also has a Marketplace feature, which allows users to post free
4 classified ads. Users can post items for sale, housing, jobs, and other items on the
5 Marketplace.

6 32. In addition to the applications described above, Facebook also provides its
7 users with access to thousands of other applications on the Facebook platform. When a
8 Facebook user accesses or uses one of these applications, an update about that the user’s
9 access or use of that application may appear on the user’s profile page.

10 33. Facebook uses the term “Neoprint” to describe an expanded view of a given
11 user profile. The “Neoprint” for a given user can include the following information from
12 the user’s profile: profile contact information; News Feed information; status updates;
13 links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists,
14 including the friends’ Facebook user identification numbers; groups and networks of
15 which the user is a member, including the groups’ Facebook group identification
16 numbers; future and past event postings; rejected “Friend” requests; comments; gifts;
17 pokes; tags; and information about the user’s access and use of Facebook applications.

18 34. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP
19 address. These logs may contain information about the actions taken by the user ID or IP
20 address on Facebook, including information about the type of action, the date and time of
21 the action, and the user ID and IP address associated with the action. For example, if a
22 user views a Facebook profile, that user’s IP log would reflect the fact that the user
23 viewed the profile, and would show when and from what IP address the user did so.

24 35. Social networking providers like Facebook typically retain additional
25 information about their users’ accounts, such as information about the length of service
26 (including start date), the types of service utilized, and the means and source of any
27 payments associated with the service (including any credit card or bank account number).
28 In some cases, Facebook users may communicate directly with Facebook about issues

1 relating to their accounts, such as technical problems, billing inquiries, or complaints
2 from other users. Social networking providers like Facebook typically retain records
3 about such communications, including records of contacts between the user and the
4 provider's support services, as well as records of any actions taken by the provider or
5 user as a result of the communications.

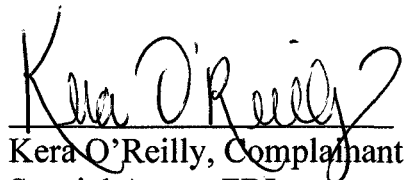
6 36. Therefore, the computers of Facebook are likely to contain all the material
7 described above, including stored electronic communications and information concerning
8 subscribers and their use of Facebook, such as account access information, transaction
9 information, and other account information.

10 37. On November 5, 2013, an FBI agent served a preservation notice to
11 Facebook regarding the account that is the subject of this warrant application.

12 38. I anticipate executing this warrant under the Electronic Communications
13 Privacy Act, in particular, Title 18, United States Code, Sections 2703(a), 2703(b)(1)(A)
14 and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the
15 government copies of the records and other information (including the content of
16 communications) particularly described in Section I of Attachment B. Upon receipt of
17 the information described in Section I of Attachment B, government authorized persons
18 will review that information to locate the items described in Section II of Attachment B.

CONCLUSION

39. Based on the forgoing, I request that the Court issue the proposed search warrant. This Court has jurisdiction to issue the requested warrant because it is "a court of competent jurisdiction" as defined by 18 U.S.C. § 2711, 18 U.S.C. § 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is "a district court of the United States . . . that has jurisdiction over the offense being investigated." See 18 U.S.C. § 2711(3)(A)(i). Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.


Kera O'Reilly, Complainant
Special Agent, FBI

SUBSCRIBED AND SWORN before me this 18 day of November, 2013.

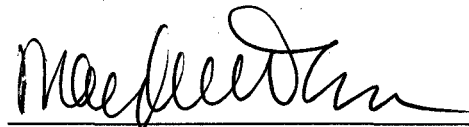

THE HONORABLE Mary Alice Theiler
United States Magistrate Judge

EXHIBIT A

heul



Verheul Timeline Recent

Ad



Mark Verheul

November 1

THIS IS THE COP I AM GOING TO KILL



Share



Mark Verheul This piece of shit violates the homeless peoples civil rights

November 1 at 10:00am



Mark Verheul fuck you NSA. I know you have read this. come get me I then d's trying

November 1 at 10:00am



Genie [REDACTED] MARK!! Honey Please Let it go I care about y NOT want to lose you This asshole is NOT worth it

November 1 at 10:00am via mobile

EXHIBIT B

ark Verheul



Home

Mark Verheul Timeline Recent



Guests

Guests



Mark Verheul
Guests

THIS PIG NEEDS TO BE TAKEN OUT

Add Fi

Share



EXHIBIT C

mi/mark.verheul

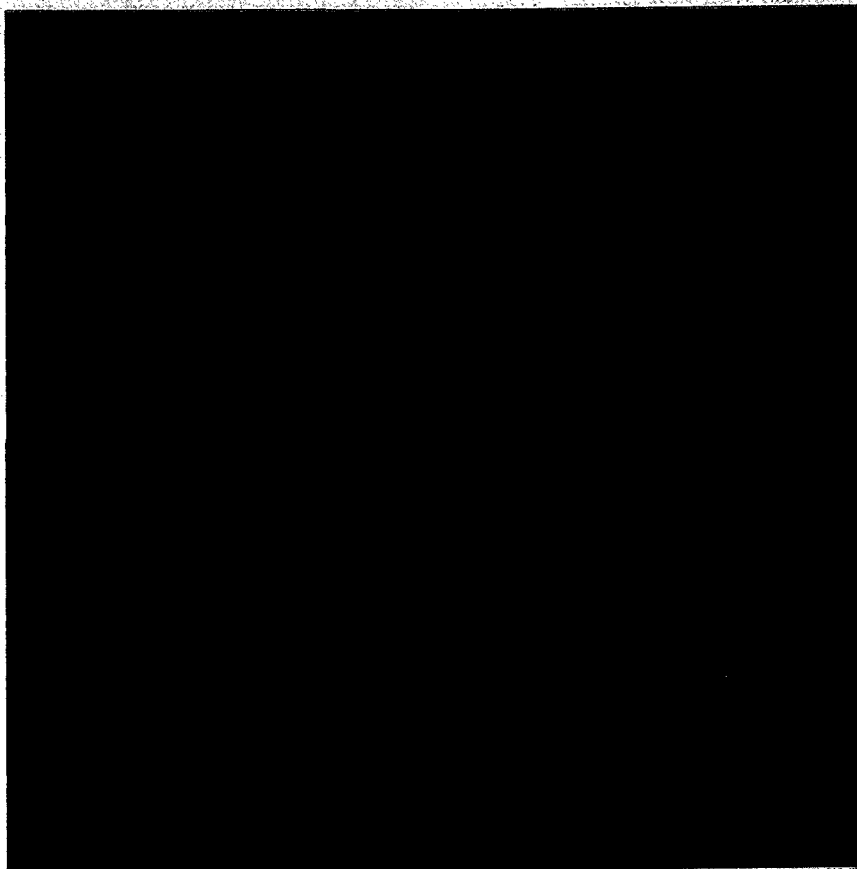


Mark Verheul



Mark Verheul Timeline Recent

Friends · 35



Mark Verheul

15 hours ago

I want to kill this cops entire family and let him live to suffer fi why I killed them

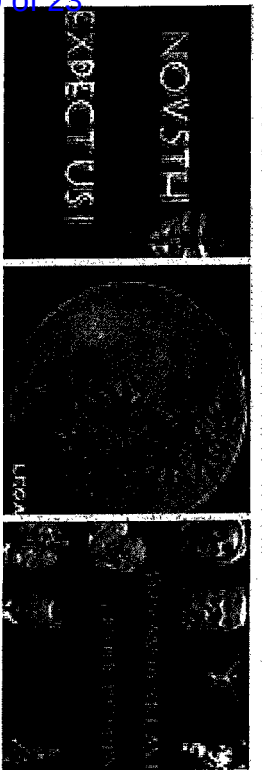


About

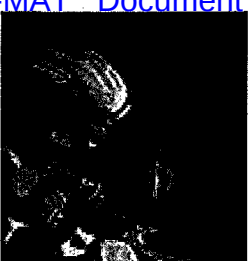
Lives in Seattle, Washington

EXHIBIT D

Mark Verheul Timeline Recent



Music - 7



Supertramp



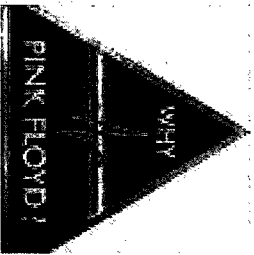
The Who



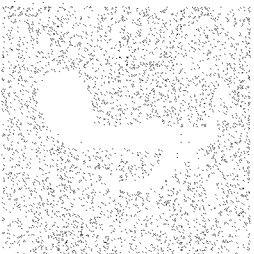
Nina Hagen



The B-52s



Pink Floyd



I Like Everything but ...

Games - 4

18 hours ago

Just so everyone understands. Cops are assholes and they all deserve to die. If I have anything to do with it, I will not hesitate to kill a cop. They are thugs and pieces of shit who don't deserve to live

Share

Marnie 3 hours ago as much as I agree, please be careful in choosing your words.

Mark Verheul 20 hours ago

This is what is going to happen to the next Kent WA cop who fucks with me



Share

View 5 more comments

Mark Verheul sorry to hear that stephen

18 hours ago

Stephen we returned the favor, and I'm not scared to revolt. But as I said, your my senior in this new fight for me...I look for your strength, not hate.

18 hours ago

Mark Verheul the police in America are out of control, they need to be stopped dead

+1 Add Friend

ATTACHMENT A
Premises To Be Searched

This warrant applies to information associated with Facebook user ID number 1567704308 that is stored at a premises owned, maintained, controlled, or operated by Facebook, a social networking company headquartered in Menlo Park, California, including, but not limited to, any data that is being preserved pursuant to a preservation letter.

Attachment A
In re search of Facebook Account

ATTACHMENT B
Documents To Be Searched

I. Information to be disclosed by Facebook

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for each user ID listed in Attachment A:

(a) All contact and personal identifying information, including full name, user identification number, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.

(b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities;

(c) All Photoprints, including all photos uploaded by that user ID and all photos uploaded by any user that have that user tagged in them;

(d) All Neoprints, including profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;

(e) All other records of communications and messages made or received by the user, including all private messages, chat history, video calling history, and pending

“Friend” requests;

- (f) All “check ins” and other location information;
- (g) All IP logs, including all records of the IP addresses that logged into the account;
- (h) All records of the account’s usage of the “Like” feature, including all Facebook posts and all non-Facebook webpages and content that the user has “liked;”
- (i) All information about the Facebook pages that the account is or was a “fan” of;
- (j) All past and present lists of friends created by the account;
- (k) All records of Facebook searches performed by the account;
- (l) All information about the user’s access and use of Facebook Marketplace;
- (m) The length of service (including start date), the types of service utilized by the user, and the means and source of any payments associated with the service (including any credit card or bank account number);
- (n) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- (o) All records pertaining to communications between Facebook and any person regarding the user or the user’s Facebook account, including contacts with support services and records of actions taken.

II. Information to be seized by the government

All information described above in Section I that constitutes evidence of the fruits and instrumentalities of violations of Title 18, United States Code, Section 875(c) (Interstate Threats), including, for the user ID identified on Attachment A, information pertaining to the following matters:

- (a) any and all Wall Posts, private messages, status updates, chat history, friend

requests, or other information regarding the Kent Police Department, any employees/officers thereof, or any other law enforcement officers;

(b) any and all photographs regarding the Kent Police Department or any employees/officers thereof, or any other law enforcement officers;

(c) any and all IP logs, including all records of the IP addresses that logged into the account, and the dates and times such logins occurred;

(d) records relating to who created, used, or communicated with the user ID, including records about their identities and whereabouts.